

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

August 14, 2003

P. Sartorius called the meeting to order at 4:02 p.m., and roll was taken.

MEMBERS PRESENT: J. Aslakson, B. Mazade, S. Warmington, P. Sartorius, T. Johnson, T. Michalski, L. Spataro

MEMBERS ABSENT: T. Harryman, excused; B. Smith, excused.

STAFF PRESENT: D. Steenhagen, H. Griffith

OTHERS PRESENT: J. & R. Booker, Booker Institute of Cosmetology; N. Cunningham, C & A Commercial; J. Harris, 4247 Orchard Rd.; J. Ruberto, 1937 Lawnel; M. Knoll-Loader, 1373 Montague; S. Shoemake, 1357 Montague; B. Mayette, 2556 Glenside; K. Pieczynski, Re/Max; D. Moore, 2588 Glenside; J. Derbin, 2312 Westwood; T. Veer, partner of J. Freed.

APPROVAL OF MINUTES

A motion to approve the minutes of the special meeting of July 28, 2003 was made by S. Warmington, supported by J. Aslakson and unanimously approved.

PUBLIC HEARINGS

Hearing; Case 2003-30: Request for an amendment to the existing Special Use Permit at 1989 Lakeshore Dr. regarding usage of the interior space and parking lot paving requirements, by the Booker Institute of Cosmetology. D. Steenhagen presented the staff report. The property is located on Lakeshore Dr. and was the former Etterman's grocery store. In July 2002 the applicant received a Special Use Permit to operate a cosmetology school on the property. The approved site plan shows that 6,800 square feet of the first floor of the building would be used for the school, with two additional retail suites to be leased out. The second floor of the building would be used for residential. The property received a Certificate of Occupancy around May of 2003. One of the conditions of the original SUP approval was that the school would be restricted to 6,800 square feet of the first floor with the rest of the first floor devoted to the proposed retail areas. The commission members were provided with a copy of the meeting minutes. Another condition was that the weeds would be removed from the parking area and the parking area would be repaved or resealed. Since the time of the original SUP approval, the school has received a contract from Muskegon County, which expands their student base. They are asking to use an additional 1,000 square feet of the existing building for school purposes. This change would reduce the area for the two retail suites, but would not reduce the number of suites. The weeds have been removed from the parking area. The parking

area is quite large (takes up half of the block) and the applicant feels that the cost to repave or reseal the lot would be extensive. After the costs of renovation of the building, the applicant would prefer to leave the parking area as it is. The parking lot paving is in decent condition – not perfect, but not dangerously substandard. The appearance of the lot has been greatly improved by the removal of the weeds. Staff has no objection to removing the condition for repaving or resealing the lot (at this time), but would propose in return a condition that the lot be kept free of weeds and maintained. Staff has received one phone call on this case from a gentleman who wanted to know how the request would affect him. The commission members were provided with a copy of the meeting minutes from July 2002. Staff recommends approval of the request with conditions.

J. Aslakson asked if there was an ordinance that would handle whether or not the parking lot should be repaved if it is required by the SUP. D. Steenhagen stated that it wasn't a zoning issue, but she wasn't sure if it would fall under another ordinance such as the property maintenance. B. Mazade stated that at the time of the original request, it may have been important to have the repaving as a condition. He felt that if a problem arises in the future, they may want to address it then. J. Booker stated that he isn't opposed to the repaving of the parking lot. He would like to do it at a later time. He has agreed to a special assessment for the repaving of Mann and Moon Streets. He has property that abuts both of these side streets. The repaving of the streets came in at just under \$7,000. He has gotten some estimates for the repaving of his parking lot and they were from \$19,000 to \$29,000. His business has been growing rapidly. They would like to not have a limit on the amount of space they will be allowed to use for the school. S. Warmington asked if they intended to have the school throughout the building. J. Booker stated that they would if they needed it. S. Warmington stated that his business is a neighbor of the Booker Institute of Cosmetology. The Bookers are good neighbors. The students and clientele are also courteous. They have done an excellent job with rehabilitating the building on the outside as well as the inside. J. Aslakson addressed the pictures of the property. He asked if the retail space would be at the end of the building with the awning. J. Booker stated that it was. J. Aslakson stated that retail development is important to the community. There is also a building a block away that was recently built that has 2 retail spaces available. T. Johnson asked if the expansion was for the first and second floors. J. Booker stated that it was for the first floor only. The second floor would still be residential units. B. Mazade asked if the letter that was sent specified that the request was for an additional 1,000-sq. ft. or not. D. Steenhagen read the letter, which didn't specify the amount. T. Michalski asked how many square feet are in the building. J. Booker stated that there are 11,000-sq. ft. on the first floor.

A motion to close the public hearing was made by L. Spataro, supported by J. Aslakson and unanimously approved.

L. Spataro stated that at the time of the original request staff had proposed limiting the amount of space to be used for the school in order to maintain some retail in the area. Currently there are other sites in the area that have vacant retail outlets ready to lease. He felt that the applicant should be able to use as much of their property as needed for the school. He doesn't feel the applicant should have to keep going before the PC for amendments to their special use permit. S. Warmington stated the school is compatible with retail establishments. T. Johnson asked if the applicant had anyone approach them about renting any retail space. J. Booker stated that he

hasn't had anyone ask.

A motion that the amendment to the existing special use permit at 1989 Lakeshore Dr., by the Booker Institute of Cosmetology be approved, based on compliance with the City's Master Land Use Plan and conditions set forth in the City of Muskegon Zoning Ordinance based on the following conditions: 1) The parking area is not required to be repaved or resealed at this time, but it does need to be adequately maintained and kept weed-free. 2) The cosmetology school is allowed to occupy as much square feet of the structure on the first floor as necessary, was made by J. Aslakson, supported by S. Warmington and unanimously approved.

Hearing; Case 2003-31: Request to rezone the property located at 1996 W. Sherman Blvd. from B-1, Limited Business to B-2, Convenience and Comparison Business, by Shermac, Inc. D. Steenhagen presented the staff report. The subject property is located at the NE corner of Sherman Blvd. and McCracken St. and contains a commercial building. The property directly to the north of the subject property is also zoned B-1 and contains a dentist office. The property to the east, across the alley, is zoned R-1. To the west, across McCracken St. is Lakeshore Carpet One, which was rezoned from B-1 to B-2 in 1992. To the south, across Sherman Blvd, is the City of Norton Shores. The applicant has leased space in the building to the Eastside Pawn Shop II. Pawnshops are classified as secondhand stores and therefore are not permitted in the B-1 zoning district. Secondhand stores are permitted in the B-2 zoning district under special use permit, and therefore the applicant is applying for this property to be rezoned to B-2. The applicant has also applied for a use variance to allow the pawnshop to remain in a B-1 district. The ZBA will hear that case on 8/12. The Future Land Use Map shows the subject property to be "Commercial". The Master Land Use Plan states: a) ...it is acknowledged that a limited range of commercial and office activities are appropriate to select segments of Lakeshore Drive and Sherman Boulevard. Typically, non-residential uses should be oriented to the needs of the local populace. Such development should be highly controlled pursuant to type, location, and design in order to prevent negative impacts on the sub-area's residential focus. b) Commercial development is sporadically located along Sherman Boulevard. Typically, commercial uses are found as small nodes near intersections or as small strip segments within various blocks. Sub-Area Stability: a) Some of the commercial uses along Sherman have not provided or maintained sufficient buffer protection to fully mitigate unwanted compatibility impacts (e.g., noise, lights, aesthetics, etc.) between said uses and nearby homes. This is not conducive to residential stability. Sub-Area Issues: a) The presence of commercial development and commercial zoning along Sherman Boulevard (both sides), combined with high rates of traffic (local and transient) will result in additional requests for strip commercial rezonings. b) Commercial signage along Lakeshore Drive and Sherman Boulevard is not consistent pursuant to size, type, and design. c) Many of the commercial establishments along Lakeshore Drive and Sherman Boulevard lack streetscapes consistent with the residential character of the sub area. The Master Plan recommends for this sub-area: a) Sherman Boulevard, work with adjoining Norton Shores to coordinate the preparation and implementation of consistent (compatible) sign, access, and related streetscape standards. Such standards should recognize the sub area's residential character. b) Implement zoning (site plan) standards requiring adequate buffer protection between the commercial uses along Lakeshore Drive and Sherman Boulevard and adjacent residential development. c) Limit expansion of commercial development (rezonings) along Sherman Boulevard. d) Existing commercial districts along Sherman Boulevard, west of Pine Grove Street, should be restricted to the B-1

Zone District Classification. B-1 uses are designed primarily to serve persons residing in adjacent residential areas or neighborhoods. Although the property west of McCracken St. was rezoned to B-2, this was done before the current Master Plan was adopted. Staff feels that the Master Plan is very clear in its recommendation to limit any commercial zoning west of Pine Grove St. to B-1 and therefore is recommending denial of this request. Staff has received a phone call from Sally Pleimling, 2080 Cutler. She is concerned about the cheapening of the property, thinks the sign is illegal, and would rather see a business such as a doctor/lawyer. Staff has received a letter from the Lakeside Neighborhood Association, which was supplied to the commission members, and an e-mail from Mike and Ellen Pallasch, 1919 LeTart, both objecting to the request. Given that the area is predominantly residential and that the Master Plan recommends that this area be limited to B-1 zoning, staff is recommending denial of this request.

T. Johnson asked about the zoning enforcement. D. Steenhagen stated that she had sent the owner a letter informing them that the pawnshop use was not allowed in the current zoning district. P. Sartorius asked if a certificate of occupancy had been granted. D. Steenhagen stated that wasn't an issue. The building was already there. Occupancy permits are for new or renovated structures. P. Sartorius asked if it was up to the owner to be sure that the use fits within the zoning of the property. D. Steenhagen stated that it was. N. Cunningham described the uses of the surrounding area. There are many uses that are allowed under a B-2 zoning, that wouldn't be allowed at this site. He gave examples of a gas station and hotels. This is a multi-tenant building, which is harder to rent out.

B. Mazade left at 4:43 p.m.

J. Harris stated that he has spoken with someone in the Planning Department and he was informed that they could have the pawnshop at the location as long as retail had been done at the location. He provided information to the commission members showing that most of his customers are from the Lakeside area. He stated that he had spoken with some of the neighbors.

S. Warmington left at 4:49 p.m.

J. Harris stated that they are also looking at possibly purchasing the building from the owner because they like the location.

A motion to close the public hearing was made by L. Spataro, supported by T. Johnson and unanimously approved.

L. Spataro stated that he had some concerns. He would like to know whom the applicant had spoken to in regards to what use would be allowed at the site. Also, the pawnshop isn't the issue before them at this time. The issue is the rezoning.

S. Warmington returned at 4:52 p.m.

L. Spataro read what was allowed under the B-2 zoning. He stated that the commission members would need to look at what possibilities would fit the site. He doesn't have a problem with the pawnshop. He does have a problem with some of the allowable uses under the B-2

zoning. He would prefer to not rezone the property. T. Johnson stated that he agreed with L. Spataro. He added that many of the businesses along Sherman Blvd. are allowed under the B-1 zoning.

B. Mazade returned at 4:55 p.m.

J. Aslakson asked what the boundaries of the sub area were. D. Steenhagen described them. S. Warmington asked what the square footage of the building was. N. Cunningham stated that it was 5,000 sq. ft. S. Warmington stated that the B-1 zoning allowed for 2,500 sq. ft. D. Steenhagen stated that staff had been enforcing it, as each use would be allowed that square footage. S. Warmington stated that he wanted to point out the limit on space that would be allowed per use. P. Sartorius stated that this area of Sherman Blvd. encompasses 2 municipalities. There are compatibility issues. The businesses in Norton Shores, which are across the street from this property, would fall under our B-2 zoning in nature. J. Aslakson stated that the City has no control over properties in other municipalities. He felt this property shouldn't be rezoned. P. Sartorius felt that Sherman Blvd. is a developing commercial corridor. L. Spataro went over the zoning map. He described the zoning districts along Sherman Blvd. and the surrounding properties. There is some B-2 and B-4 zonings, but most of the area is zoned R-1. D. Steenhagen suggested a possible need to amend the Master Plan for the Sherman Blvd. corridor. T. Johnson stated that he is concerned with the effect this could have on the neighborhood. He felt that the dentist office that is located behind this property could serve as a buffer between this property and the residential properties behind the dentist office. L. Spataro asked if there was a way to accomodate the applicant without rezoning the property. D. Steenhagen stated that a use variance would be the other option, but the applicant has gone that route and the request was denied. The ZBA has a set of standards that have to be met in order to approve a request. The commission members felt that some of the standards had been met, but not all of them. N. Cunningham felt that the focus was on the pawnshop and not the rezoning. He compared the B-1 and B-2 zoning language and they both allow for retail stores. The difference is the word "new" items. The applicant had started out the business with items they had purchased in order to get customers to come in. Most of the items had sold. J. Aslakson stated that based on pragmatic feeling the property should be zoned B-2. He isn't saying that he agrees that the pawnshop should be allowed at the site. B. Mazade stated that he agreed and he felt that the business located behind this property would be a good buffer between this property and the neighboring residential properties.

A motion that the request to rezone property at 1996 W. Sherman Blvd. as described in the public notice, from B-1, Limited Business to B-2, Convenience & Comparison Business be recommended for approval to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of compliance with the intent of the City Master Land Use Plan and zoning district intent, was made by S. Warmington, supported by J. Aslakson and unanimously approved.

Hearing: Case 2003-32: Request for a Special Use Permit for a massage therapy school at 1845 Lakeshore Dr., by the Blue Heron Academy of Healing Arts and Sciences. D. Steenhagen presented the staff report. The property is located at the corner of Lakeshore Dr. and Blodgett St., and is a multi-suite commercial building. This case is the result of an enforcement action on the property. Staff had observed that a private school was operating on the site and contacted

the property owner to let her know that a Special Use Permit is required for this use. The property is zoned B-2, Convenience and Comparison Business. Private schools operated for profit are permitted in the B-2 district but only under Special Use Permit. The school has stated that they currently have eight students enrolled and that the program operates classes on Monday, Tuesday and Wednesday evenings. The program may change days in the fall. The school appears to be small scale but staff would suggest limiting the number of students in order to keep it at a level which the property and parking can easily support. There are three designated parking lots for this property. There are parking lots on either side of the building and a lot across the street, which contain a total of 41 parking spaces for the property. A business, vocational or trade school requires one parking space for every 300 square feet of usable floor area. Staff does not know the exact square footage of the school's suite but since the school has only 8 students and staff, and there are 21 spaces on the same property as the school, staff feels that the parking requirements are most likely met. There is already an approved site plan on file for this property and signage for the business is already in place. Staff has not received any phone calls or letters regarding this case. Staff recommends approval of the request with conditions.

L. Spataro asked how long the applicant had been at the location. D. Steenhagen stated that she wasn't sure, the applicant may be the best person to answer this. J. Aslakson asked if there would be sufficient parking for all the suites in the building. D. Steenhagen stated that since some of the suites have daytime hours, and this business has evening hours, there should be sufficient parking for them. T. Johnson asked who the owner of the parking lot across the street from this property was. D. Steenhagen stated that the owner of the building also owns the parking lot across the street from the site. J. Ruberto stated that they had been at the current location for about a year. They were at a different site just down the street on Lakeshore Dr. They would have a maximum of 12 students at 1 time along with an instructor. L. Spataro suggested changing the proposed condition to no more than 12 students allowed per class.

A motion to close the public hearing was made by S. Warmington, supported by T. Michalski and unanimously approved.

A motion that the special use permit for a massage therapy school at 1845 Lakeshore Dr., Suite 7 by the Blue Heron Academy of Healing Arts & Sciences be approved, based on compliance with the City's Master Land Use Plan and conditions set forth in the City of Muskegon Zoning Ordinance based on the following condition: No more than 12 students are allowed within a class at one time, was made by S. Warmington, supported by L. Spataro and unanimously approved.

Hearing; Case 2003-33: Request for preliminary Planned Unit Development approval for a mixed-use commercial and single-family residential development at 1344 W. Sherman Blvd., 1374 W. Sherman Blvd., 1333 Montague Ave., and 1343 Montague Ave., by Jim Freed. D. Steenhagen presented the staff report. The subject property is located on W. Sherman Blvd., west of the Landmark Bar. A portion of the property also fronts on Montague Ave. This property has been the subject of a rezoning request in October of 1999. The request was to rezone it to B-2, Convenience & Comparison Business. That request was denied by the City Commission. Staff understands that there was a previous request to rezone the property for a business use as well, which also was denied. The applicant has purchase agreements for the

subject property, which also includes an additional parcel than previous requests, bringing the subject property up to the adjoining property line of the existing residence at the NE corner of Sherman Blvd. and Glenside Blvd. The applicant is looking to develop the Sherman Blvd. frontage into a small commercial strip development with three suites and associated parking. The Montague Ave. frontage would be developed into residential lots, most likely for two single-family homes to be built there. The applicant has stated that two of the three commercial suites are spoken for – a tanning parlour and a hair salon. The applicant has submitted a preliminary site plan for the property. At this time, only detailed plans for the commercial portion of the site are provided but a notation on the plan indicates that the Montague Ave. development will be residential in nature. Staff has reviewed the preliminary site plan and has the following comments: a) The site is currently heavily wooded. As many of the existing trees as practical need to be preserved, especially at the rear of the site to help act as a buffer between the proposed commercial use and existing residential uses on Montague Ave. Existing trees preserved may be counted in lieu of providing additional landscaping for the site. b) The parking area cannot be paved up to the property line. All proposed setbacks need to be shown on the site plan. c) Plans will need to be submitted and approved for the proposed residential homes fronting Montague Ave. A maximum of two homes can be built on the Montague Ave. frontage. d) Barber or beauty shops require two parking spaces for each of the first two beauty chairs, and one-half space for each additional chair. Tanning parlours require one parking space for each 400 square feet of usable floor area. There are 60 parking spaces proposed for this development, which should meet ordinance requirements. Once more detailed information is received about the proposed uses, staff can further determine if the proposed parking area exceeds the maximum parking spaces allowed for the site. e) The City Engineer has reviewed the preliminary site plan and states that a permit to construct the drive must be approved by Engineering and that all surface water must be managed on site. f) The Fire Marshal has reviewed the preliminary site plan and states: i) Please submit documentation on proposed use group of commercial building. ii) Please list and display current hydrant location. iii) Fire flow test required – please contact the DPW for current or past history on fire flow (water supply). iv) This proposed project shall be in accordance with Planned Building Groups NFPA 1141. g) The Department of Public Works has reviewed the preliminary site plan and states that water and sewer utility easements need to be shown on future drawings. Will need to know proposed size and location of water and sewer service. h) The Police Department has no outstanding concerns with the preliminary site plan. Staff has not received any phone calls or letters regarding this case. Staff recommends approval of the request with conditions.

T. Johnson asked if the property needed to be rezoned. D. Steenhagen stated that the PUD allows for the mixed use. T. Johnson asked if the PUD could be done without the property being rezoned from the R-1 zoning. D. Steenhagen read a letter that B. Moore had written to the applicant when they had tried to have the property rezoned. The PUD was the option that she had suggested to the applicant at that time. B. Mazade stated that the purpose of a PUD is for mixed use. T. Johnson was concerned that a commercial PUD can't be done in an R-1 zoning. He was concerned that some commercial uses wouldn't be good for the adjoining residential properties. J. Aslakson understands that this is a difficult piece of property. He doesn't feel anyone would build single-family structures along that stretch of Sherman Blvd. He also has some concerns with too many trees being cut down on the site for the development. The trees act as a buffer for the residents from the Sherman Blvd. activity. L. Spataro agreed with J. Aslakson. A PUD would give the Planning Commission control over what is allowed on

the property. M. Knoll-Loader stated that she has concerns with losing the trees. She has an above ground pool in her backyard and if the trees are cut down, people traveling along Sherman Blvd. would be able to see what is going on in her yard. She also has concerns of what would happen to the site if a business fails at the location. She is also concerned with the traffic that a commercial use would generate. She is opposed to the request. S. Shoemake is opposed to the request due to the noise level a commercial use has and with losing the trees as a buffer. B. Mayette stated that she is concerned that the value of her property will go down. Should the trees be removed, it would make it hard to sell the property with the commercial use being behind it. She is also concerned with the noise that would be heard with the removal of the trees. She is not opposed to the proposed residential homes. She has concerns with a strip mall type of building. K. Pieczynski stated that he had brought the proposal for the rezoning in 1999. The request was for a laundromat at the site. He understood the neighbors concerns with that type of use for the property. Mr. Freed is a builder and would be constructing the building. His wife would own the hair salon. She currently has a location in the Park Row Mall and would be moving it to this site. A tanning parlour that also located in the Park Row Mall would be moving to this site. He couldn't see residential homes being developed on the Sherman Blvd. side. Mr. Freed had already built a similar development to this in Muskegon Township. He had built a privacy fence and timers on the exterior lights at this development in order to be a good neighbor.

J. Derbin asked what a PUD was. P. Sartorius explained it to him. D. Moore stated that the lots in this area are only about 100 ft. deep. She is concerned with the placement of the entrance to the proposed development. J. Aslakson stated that there is only 1 drive proposed for this site along Sherman Blvd. according to the plans that were submitted.

A motion to close the public meeting was made by B. Mazade, supported by T. Johnson and unanimously approved.

S. Warmington left at 6:00 p.m.

J. Aslakson stated that he is hung up on whether this is a legitimate use for a PUD under the zoning for the property. He felt this should be tabled to allow for the City Attorney's input on this. L. Spataro felt the developer should have an opportunity to speak about the proposed project. T. Michalski asked if the developer intends to build the residential homes. K. Pieczynski stated that the intent is to build 2 homes. T. Michalski felt that since the property is already zoned residential, the single-family homes didn't need to be included in the request. He didn't feel that a PUD was intended to be used in this manner. L. Spataro stated that the property had been for sale for a long time. He stated that a PUD would allow the Planning Commission to place restrictions on what can be done in order to address the neighbor's concerns. Based on the proposed building, he didn't understand the need for 63 parking spaces when there could be 15 to 20. He would like to see elevations of what the building would look like. He felt that the screening was inadequate.

B. Mazade left at 6:10 p.m.

J. Aslakson asked where the development was that Mr. Freed built in the township. K. Pieczynski stated that it was at M120 and Joslin. J. Aslakson stated that if the building were

changed it could create a larger buffer between the site and the neighboring property owners. This could be about 20 ft. He suggested making the building longer and skinnier. T. Johnson stated he would like to see a tree count and their location along with a landscaping plan. T. Michalski asked staff to check and see if there is a platted alley through the site. L. Spataro stated that he would like to see what the intent would be if there are 3 units now, would there be 10 later. He would like to see everything that is proposed now, and if there is the possibility of more in the future. T. Veer stated that he would be part owner with Mr. Freed and there is no intent to expand. He described the intent of the large parking lot since there will be customers as well as employees parking there.

A motion that the preliminary PUD for a mixed-use commercial and residential development at 1344 & 1374 W. Sherman Blvd. also 1333 and 1343 Montague Ave., be tabled, was made by L. Spataro, supported by T. Johnson and unanimously approved.

OTHER

Imagine Muskegon – P. Sartorius showed the mock-up of what was done through the workshops and informed the commission members that it is also on the City's website. He asked the members if they would be interested in a special meeting for a formal presentation in September. He suggested having it on September 25th at 4 p.m. L. Spataro asked to be excused from the presentation as he has already seen it twice. D. Steenhagen suggested inviting the ZBA members.

A motion to hold a special worksession with the ZBA for an Imagine Muskegon formal presentation on September 25th at 4 p.m., was made by T. Johnson, supported by T. Michalski and unanimously approved.

Harbour Towne Sidewalks – L. Spataro asked that an update be made regarding this for the next meeting. He stated that there was a tentative agreement that the City Attorney is looking over.

Workplan Update – D. Steenhagen provided the commission members a copy of the updated workplan. She would like the commission members to look it over for discussion at the next meeting.

There being no further business, the meeting adjourned at 6:25 p.m.

hmg
8/14/03